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Mr. Christopher John Rourk GODWIN PAPPAS LANGLEY RONQUILLO LLP 1201 Elm Street, Renaissance Tower DALLAS, TX 75270			COLBERT, ELLA	
			ART UNIT	PAPER NUMBER
			3624	

DATE MAILED: 03/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/656,815	Applicant(s) RODRIGUEZ ET AL.	
	Examiner Ella Colbert	Art Unit 3624	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 December 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 9-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 9-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 9-28 are pending. Claims 9 and 12 have been amended in this communication filed 1/06/05 entered as Response After Non-Final Action.
2. The Drawings filed 12/06/05 have been reviewed and accepted. The drawing objection has been overcome by Applicants' Replacement Drawing sheets and is hereby withdrawn..
3. The Response to the Arguments filed 08/05/05 is addressed here below in the "Response to Arguments" section of this Office Action.
4. The Specification still remains objected to as set forth here below.
5. The Claim 10 objection has been overcome by Applicants' amendment to claim 10 and is hereby withdrawn.
6. Claims 9, 10, 13, 14, 17, 19, 22, 24, and 26-28 still remain rejected under 35 USC 112, second paragraph as set forth here below.

Specification

7. The Specification is objected to because in the description of Figures 2 and 3 do not mention element "112" which is in the figure drawings, figure 7, elements "720", "722", and "724" are not found as being mentioned or described, and figure 8, elements "814" and "816" were not mentioned in the description of figure 8 . Correction is required. See MPEP § 608.01(b).

Claim Rejections - 35 USC § 112

8. The following is a quotation of the second paragraph of 35 U.S.C. 112:

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The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

9. Claims 9, 10, 13, 14, 17, 19, 22, 24, and 26-28 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 9 is very unclear and vague. What is forming the credit transaction data message? Is it the protocol translator or the transmission protocol forming the credit transaction message? In claim 13 it cannot be determined what happens after the step "decrypting of the encrypted authorization request". Once the encrypted authorization request has been decrypted what happens to the decrypted authorization request? It is very vague from the claim language what happens next. Claim 17 has a similar problem relating to "processing the control message". What happens to the control message once it has been processed? It is vague in the claim language what happens to the control message next.

Claims 13 and 22 lack antecedent basis. Claim 13 recites the limitation "two or more authorization systems" in line 10 and it is not in any of the other limitations of this claim. Claim 22, line 3 recites "two or more point-of-sale systems" and in line 7 "one or more point of sale systems". There is insufficient antecedent basis for this limitation in the claim.

Claims 9, 13, 17, and 22 discuss two or more point of sale systems or two or more point of sale devices and claims 10, 14, 19, 22, 24, and 26-28 discuss one or more point of sale systems or point of sale device. The Specification on page 13, lines 10 and 11 references two or more point of sale systems. It is unclear whether there are

two or more point of sale systems or one point of sale system or a point of sale device because the claims and the Specification are not in agreement.

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 9-11 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over (US 5,500,890) Rogge et al in view of (US 5,448,047) Nair et al, hereafter Nair.

Claim 9. Rogge teaches, An apparatus for transmitting credit transaction data over a communications medium comprising: a protocol translator receiving the credit transaction data from two or more point of sale systems according to two or more different transmission protocols each transmission protocol associated with a different credit authorization system, and forming a credit transaction data message (col. 3, line 51-col. 4, line 36, col. 5, lines 28-50 and line 59-col. 6, line 55). Rogge failed to teach, an encryption means for receiving the credit transaction data message a protocol translator and encrypting the credit transaction data message. Nair teaches, an encryption means for receiving the credit transaction data message from a protocol translator and encrypting the credit transaction data message (col. 5, line 60 – col. 6, line 38). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have an encryption means for receiving the credit transaction

data message from a protocol translator and encrypting the credit transaction data message and to modify in Rogge because such a modification would allow Rogge to have a multireader terminal with a security indicator and if the security indicator is set the terminal can read the card day from both the first and second card identifying information readers.

Claim 10. Rogge teaches, The apparatus of claim 9 further comprising a device router means for transmitting authorization data received in response to the credit transaction data message to the one or more point of sale systems (col. 8, line 15 –col. 9, line 11).

Claim 11. Rogge teaches, The apparatus of claim 9 further comprising a management system interface for storing a protocol module to the protocol translator (col. 11, lines 55-col. 12, line 51, col. 14, line 42-58, col. 15, line 64-col. 16, line 25, and col. 17, lines 21-65).

12. Claims 12-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over (US 5,500,890) Rogge et al, hereafter Rogge and (US 5,448,047) Nair et al, hereafter Nair in view of (US 6,178,409) Weber et al, hereafter Weber.

Claim 12. Rogge and Nair failed to teach, the apparatus of claim 9 further comprising management system interface means for storing an encryption module to an encryption system. Weber teaches, a management system interface means storing an encryption module to an encryption system (col. 3, lines 10-67). It would have been obvious to one having ordinary skill in the art at the time the invention was made to

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have a management system interface means for storing an encryption module to the encryption system and to modify in Rogge because such a modification would allow Rogge to have a secure communication protocol with a payment gateway computer that provides electronic commerce services to support a financial institution such as a bank that interfaces to the financial institution to support the authorization and capture of transactions.

Claim 13. Rogge teaches, A method for transmitting credit transaction data over a communications medium comprising; receiving credit transaction data from two or more point of sale devices, each reading credit card data from a magnetic stripe of a credit card (col. 5, lines 27-50, col. 6, line 66 –col. 7, line 11, and col. 11, lines 55-64); determining a point-of-sale device data transmission protocol to use to assemble the credit transaction data into an authorization request (col. 8, lines 15-47); determining which of two or more authorization systems is the appropriate authorization system to provide the authorization request to (col. 9, lines 12-40); and transmitting the authorization request to the appropriate authorization system (col. 10, lines 15-40).

Rogge and Nair failed to teach, encrypting the authorization request; transmitting the encrypted authorization request over the communications medium; and decrypting the encrypted authorization request. Weber teaches, encrypting the authorization request (col. 15, line 63- col. 16, line 35); transmitting the encrypted authorization request over the communications medium (col. 16, lines 60-67); and decrypting the encrypted authorization request (col. Col. 16, lines 41-52). It would have been obvious to one having ordinary skill in the art at the time the invention was made to encrypt the

authorization request; transmit the encrypted authorization request over the communications medium; and decrypt the encrypted authorization request and to modify in Rogge because such a modification would allow Rogge to include authorization and encryption public key that appends to the combination of the combined basic authorization request and the public key.

Claim 14. Rogge and Nair failed to teach, The method of claim 13 wherein receiving the credit transaction data from the point of sale device comprises receiving the credit transaction data in accordance with one or more of an ISO 8583 protocol or a Visa-K protocol. Weber teaches, receiving the credit transaction data from the point of sale device comprises receiving the credit transaction data in accordance with one or more of an ISO 8583 protocol or a Visa-K protocol (col. 7, lines 1-31). It would have been obvious to one having ordinary skill in the art at the time the invention was made to receive receiving the credit transaction data from the point of sale device comprises receiving the credit transaction data in accordance with one or more of an ISO 8583 protocol or a Visa-K protocol and to modify in Rogge because such a modification would allow Rogge to have a payment protocol request packet (e.g., an SSL-encapsulated ISO 8583 packet) before sending the request to a gateway.

Claim 15. Rogge and Nair failed to teach, The method of claim 13 wherein encrypting the authorization request comprises encrypting the credit transaction data using an encryption module received from a hub manager. Weber teaches, wherein encrypting the authorization request comprises encrypting the credit transaction data using an encryption module received from a hub manager (col. 13, lines 29-56 and col.

14, lines 37-67). It would have been obvious to one having ordinary skill in the art at the time the invention was made to encrypt the authorization request to comprise encrypting the credit transaction data using an encryption module received from a hub manager and to modify in Rogge because such a modification would allow Rogge to have an Authorization/Data Capture Module to process the requests originated by the merchant to the consumer and to route them to a Protocol Module.

Claim 16. Rogge and Nair failed to teach, The method of claim 13 wherein transmitting the encrypted authorization request over the communications medium comprises transmitting the encrypted data in an HTTP format. Weber teaches, transmitting the encrypted authorization request over the communications medium comprises transmitting the encrypted data in an HTTP format (col. 64, lines 30-57). It would have been obvious to one having ordinary skill in the art at the time the invention was made to transmit the encrypted authorization request over the communications medium to comprise transmitting the encrypted data in an HTTP format and to modify in Rogge because such a modification would allow Rogge to utilize well-known Hypertext Markup Language (HTML) to implement documents on the Internet together with a general-purpose secure communication protocol (HTTP- HyperText Transfer Protocol) for a transport medium between the client and the merchant.

Claim 17. Rogge failed to teach, A method for controlling the transmission of credit transaction data comprising: transmitting one or more control messages to a remote hub, each control message adapted for one or two or more point of sale devices and processing the control message at the remote hub. Weber teaches, each control

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message adapted for one of two or more different point of sale devices process the control message at the remote hub (col. 42, lines 41-50); and performing a control function on one of two or more point of sale devices that read credit card data from a magnetic stripe of a credit card at the remote hub in response to the control message if the control message is adapted for the point of sale device (col. 96, line 51- col. 99, line 43). Nair teaches, A method for controlling the transmission of credit transaction data comprising: transmitting one or more control messages to a remote hub (col. 4, lines 20-44 and lines 54-60); and processing the control message at the remote hub (col. 4, line 61-col. 5, line 16). It would have been obvious to one having ordinary skill in the art at the time the invention was made to transmit one or more control messages to a remote hub and processing the control message at the remote hub and to modify in Rogge because such a modification would allow Rogge to have a means to transmit control messages and to process the messages through a gateway (hub).

Claim 18. Rogge and Nair failed to teach, The method of claim 17 wherein performing the control function at the remote hub in response to the control message comprises transmitting status data for the remote hub. Weber teaches, performing the control function at the remote hub in response to the control message comprises transmitting status data for the remote hub (col. 62, lines 9-23). It would have been obvious to one having ordinary skill in the art at the time the invention was made to perform the control function at the remote hub in response to the control message comprises transmitting status data for the remote hub and to modify in Rogge because

such a modification would allow Rogge to have the stages of processing a payment capture request and generate and transmit a payment capture request response.

Claim 19. Rogge and Nair failed to teach, The method of claim 17 wherein performing the control function at the remote hub in response to the control message comprises transmitting status data for one or more point of sale devices connected to the remote hub. Weber teaches, performing the control function at the remote hub in response to the control message comprises transmitting status data for one or more point of sale devices connected to the remote hub (col. 17, lines 1-63). It would have been obvious to one having ordinary skill in the art at the time the invention was made to perform the control function at the remote hub in response to the control message comprises transmitting status data for one or more point of sale devices connected to the remote hub and to modify in Rogge because such a modification would allow Rogge to have a gateway computer systems that verifies the merchants computer system's validation.

Claim 20. Rogge failed to teach, performing the control function at the remote hub in response to the control message comprises updating the remote hub with a protocol module to accommodate a new point of sale device. Nair teaches, The method of claim 17 wherein performing the control function at the remote hub in response to the control message comprises updating the remote hub with a protocol module to accommodate a new point of sale device (col. 11, line 48-col. 12, line 6 and fig. 2C). It would have been obvious to one having ordinary skill in the art at the time the invention was made to perform the control function at the remote hub in response to the control

message comprises updating the remote hub with a protocol module to accommodate a new point of sale device and to modify in Rogge because such a modification would allow Rogge to have a multireader terminal connected to a POS terminal via a cable and serial ports for control of the message to the new point of sale terminal.

Claim 21. Rogge and Nair failed to teach, The method of claim t 7 wherein performing the control function at the remote hub in response to the control message comprises updating the remote hub with an encryption module. Weber teaches, performing the control function at the remote hub in response to the control message comprises updating the remote hub with an encryption module (col. 19, lines 21-67). It would have been obvious to one having ordinary skill in the art at the time the invention was made to perform the control function at the remote hub in response to the control message comprises updating the remote hub with an encryption module and to modify in Rogge because such a modification would allow Rogge to have a customer-merchant general-purpose secure communication protocol that depicts a basic authorization request.

Claim 22. Rogge teaches, A system for transmitting credit transaction data comprising: two or more point-of-sale systems, each point-of-sale system using a proprietary data format to read credit card data from a magnetic stripe of a credit card and generate credit transaction data (col. 6, line 66-col. 7, line 11 and col. 8, lines 15-33). Rogge failed to teach, a remote hub system coupled to a communications medium, the remote hub system receiving the credit transaction data from one or more point of sale systems, translating the credit transaction data from the proprietary data format to

a predetermined data format, encrypting the translated credit transaction data, and transmitting the translated encrypted credit transaction data over the communications medium; and a gateway system coupled to the communications medium, the gateway system receiving the encrypted translated credit transaction data, decrypting the encrypted translated credit transaction data, and transmitting the translated credit transaction data to an authorization system. Weber teaches, a remote hub system coupled to a communications medium, the remote hub system receiving the credit transaction data from one or more point of sale systems, translating the credit transaction data from the proprietary data format to a predetermined data format, encrypting the translated credit transaction data, and transmitting the translated encrypted credit transaction data over the communications medium (col. 24, lines 7-56); and a gateway system coupled to the communications medium, the gateway system receiving the encrypted translated credit transaction data, decrypting the encrypted translated credit transaction data, and transmitting the translated credit transaction data to an authorization system (col. 38, line 37-col. 40, line 10). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have a remote hub system coupled to a communications medium, the remote hub system receiving the credit transaction data from one or more point of sale systems, translating the credit transaction data from the proprietary data format to a predetermined data format, encrypting the translated credit transaction data, and transmitting the translated encrypted credit transaction data over the communications medium; and a gateway system coupled to the communications medium, the gateway system receiving the

encrypted translated credit transaction data, decrypting the encrypted translated credit transaction data, and transmitting the translated credit transaction data to an authorization system and to modify in Rogge because such a modification would allow Rogge to have a secure general-purpose communication protocol such as the SSL protocol.

Claim 23. Rogge and Nair failed to teach, The system of claim 22 further comprising: a first authorization system coupled to the gateway system; a second authorization system coupled to the gateway system; and wherein the gateway system transmits the credit transaction data to the first or second authorization system based upon the translated credit transaction data. Weber teaches, a first authorization system coupled to the gateway system; a second authorization system coupled to the gateway system; and wherein the gateway system transmits the credit transaction data to the first or second authorization system based upon the translated credit transaction data (col.61, line 26- col. 63, line 62). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have a first authorization system coupled to the gateway system; a second authorization system coupled to the gateway system; and wherein the gateway system transmits the credit transaction data to the first or second authorization system based upon the translated credit transaction data and to modify in Rogge because such a modification would allow Rogge to secure payment authorization system for processing a payment authorization request and generating and transmitting a payment authorization response.

Claim 24. Rogge and Nair failed to teach, The system of claim 22 wherein the remote hub system further comprises a protocol translator receiving the credit transaction data from each of the one or more point of sale systems according to the proprietary data format associated with each point of sale system. Weber teaches, the remote hub system further comprises a protocol translator receiving the credit transaction data from each of the one or more point of sale systems according to the proprietary data format associated with each point of sale system (col. 65, line 16 –col. 66, line 20). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the remote hub system further comprises a protocol translator receiving the credit transaction data from each of the one or more point of sale systems according to the proprietary data format associated with each point of sale system and to modify in Rogge because such a modification would allow Rogge to have a protocol that can translate from HTML page format to XML format in an Internet environment.

Claim 25. Rogge and Nair failed to teach, The system of claim 22 wherein the remote hub system further comprises an update system receiving an encryption update and installing the encryption update on the remote hub system. Weber teaches, wherein the remote hub system further comprises an update system receiving an encryption update and installing the encryption update on the remote hub system (col. 16, line 13-col. 17, line 8). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the remote hub system further comprise an update system receiving an encryption update and installing the encryption update

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on the remote hub system and to modify in Rogge because such a modification would allow Rogge to have a private key to encrypt a payment authorization response and a merchant authorization response thereby encrypting and obtaining a cleartext version of the random key.

Claim 26, Rogge and Nair failed to teach, The system of claim 22 wherein the remote hub system further comprises an update system receiving an encryption update and installing the encryption update on one or more of the point-of-sale systems.

Weber teaches, wherein the remote hub system further comprises an update system receiving an encryption update and installing the encryption update on one or more of the point-of-sale systems (col. 21, lines 20-col. 22, line 23). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have a remote hub system further comprises an update system receiving an encryption update and installing the encryption update on one or more of the point-of-sale systems and to modify in Rogge because such a modification would allow Rogge to have a payment gateway computer system that encrypts using a random key encryption key forming and encrypted combined block.

Claim 27. Rogge teaches, The system of claim 22 wherein the point-of-sale systems include one or more pre-existing point of sale systems that are configured to communicate using a public switched telephone network telephone line (col. 1, lines 9-13 and fig.'s 1 and 2 (11-16)).

Claim 28. Rogge teaches, The system of claim 27 further comprising a telephone backup system coupled to one or more of the point of sale systems and the

hub, wherein the hub uses the telephone backup system when the communications medium is unavailable (col. 12, lines 54-64).

Response to Arguments

13. Applicant's arguments filed 12/06/05 have been fully considered but they are not persuasive.

Issue no. 1: Applicants' argue: It is noted that element 112 is described at length in the description of FIGURE 1, and it is noted on page 7, lines 2-4, that "like parts are marked throughout the specification and drawings with the same reference numerals" has been considered but is not persuasive. Response: The Examiner traverses this argument because page 7, lines 2-4 do not make any mention of element "112" and each and every drawing figure element is supposed to be mentioned in the Specification in the "DETAILED DESCRIPTION OF THE PREFERRED EMBODIMENTS". Element "112" has been found in reference to Figure 3 in lines 9 and 10 of the Specification. Where is element "112" mentioned in the description of figure 1?

Issue no. 2: Applicants' argue: The cause of the Examiner's confusion is not apparent from the claim language, and may be the result of inattention to detail, such as the difference between the terms "credit transaction data message" and "credit transaction message" has been considered but is not persuasive. Response: The Examiner did not reject "credit transaction message". What is rejected under 35 USC 112, second paragraph is "credit transaction data message". The Examiner is wanting to see in the claim language what means is forming the credit transaction data message.

Issue no. 3: Applicants' argue: The basis of the rejection for claim 13 is unclear – first, the term “two or more authorization systems” has proper antecedent basis, and second, the “two or more authorization systems” are clearly related to the underlined claim terms: “determining which of two or more authorization systems is the appropriate authorization system to provide the authorization request to; and transmitting the authorization request to the appropriate authorization system” and further clarification is needed in order to understand the basis for the Examiner's contention that antecedent basis is lacking has been considered but is not persuasive. Response: There is not any reference to “two or more authorization systems” in the claim limitations of claim 13, much less the mention of “systems” in the plural, meaning more than one system. The claim only references “the appropriate authorization system” which does have antecedent basis for “the appropriate authorization system”.

Issue no. 4: Applicants' argue: The Examiner also rejects claims 9, 10, 13, 14, 17, 19, 22, 24, and 26-28, apparently based on the use of “point of sale system” and “point of sale device”, and also on the grounds that it “is unclear whether there are two or more point of sale systems or one point of sale system” and the Applicants' call the Examiner's attention to page 8, line 31 to page 9, line 4 of the Specification, which states that “[p]oint of sale system 104 is coupled to remote hub system 102, ..., and be one or more software systems operating on a point of sale terminal or device” has been considered but is not persuasive. Response: Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Issue no. 5: Applicants' argue: Rogge fails to suggest that the point of sale terminals 12, 14, and 16 could be from different manufactures, it also discloses a multi-threaded architecture that sends individual transactions from a controller to a front end processor that must be coordinated with the controller for multi-threaded transaction processing has been considered but is not persuasive. Response: Where in the Applicants' claim limitations does it have a claim limitation "the point of sale terminals are from different manufacturers"?

Issue no. 6: Applicants' argue: Rogge does not disclose the corresponding structure in claim 9 and it does not even disclose the claimed protocol translator of claim 9 prior to amendment, much less the protocol translator means has been considered but is not persuasive. Response: Rogge does teach a multi-terminal POS system design which is interpreted to receive credit transaction data from two or more point of sale systems which can use different transmission protocols associated with a different credit authorization system and receiving responses to the credit transactions in col. 3, line 51-col. 4, line 36 and col. 5, line 28-col. 6, line 55.

Issue no. 7: Applicants' argue: Although the Examiner has cited to numerous locations of Rogge as allegedly disclosing a management system interface means for storing a protocol module to the protocol translator, none of the cited sections disclose a management interface, much less the structure disclosed in the pending application. Response: It is interpreted that Rogge teaches a management interface (the controller and network interface software) coupled to the protocol translator storing a protocol

module (software) in col. 11, line 55-col. 12, line 51, col. 14, lines 42-58, col. 15, line 64-col. 16, line 25, and col. 17, lines 21-65.

Issue no. 8: Applicants' argue: The SSL functionality of Weber does not have the structure for the management system interface means for storing an encryption module to the encryption system as disclosed in the Specification, and the rejection of claim 12 over Rogge in view of Nair and Weber is therefore improper has been considered but is not persuasive. Response: Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). The management system interface is addressed above in Issue no. 7.

Issue no. 9: Applicants' argue: Rogge fails to disclose those elements because Rogge uses a multi-threaded approach to submit individual authorization requests, and does not determine a point-of-sale device data transmission protocol for each of two or more point of sale devices into a single authorization request has been considered but is not persuasive. Response: In response to Applicants' argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., determining a point-of-sale device data transmission protocol for each of two or more point of sale devices into a single authorization request) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). The claim limitation of claim 13 reads "determining a point-of-sale device data transmission protocol to use to

assemble the credit transaction data into an authorization request”. Where in the claim does the limitation recite “determine a point-of-sale device data transmission protocol for each of two or more point of sale devices into a single authorization request”? Applicants’ are respectfully requested to point out this limitation in claim 13.

Issue no. 10: Applicants’ argue: It is further noted that the Examiner has failed to rely on Nair for any teaching and as such, the combination of Rogge, Nair and Weber fails to anticipate each element of claim 13 has been considered but is not persuasive. Response: In a 35 USC 103 rejection, all three references do not have to be used to teach every element of an independent claim. Anticipation is used for a 35 USC 102 rejection and not for a 35 USC 103, obviousness rejection.

Issue no. 11: Applicants’ argue: The Examiner admits that Rogge and Nair fail to disclose the Visa-K protocol, but states that Weber does so at col. 7, lines 1-31 and in fact, Weber fails to disclose the Visa-K protocol anywhere has been considered but is not persuasive. Response: The claim limitation recites “... in accordance with one or more of an ISO 8583 protocol or a Visa-K protocol”. A reference is only required to teach either the ISO 8583 protocol or the Visa-K protocol but not both types of protocols. When an “or” is present the reference(s) are only required to teach one of the elements and not both elements. The usage of “or” is considered broad.

Issue no. 12: Applicants’ argue: There is simply no way for a reference that fails to teach transmitting and processing a type of message to disclose what the undisclosed messages are adapted for has been considered but is not persuasive. Response: The claim limitation recites “transmitting one or more control messages to a

remote hub, each control message adapted for one of two or more different point of sale devices” the next limitation recites “processing the control message at the remote hub; and performing a control function on one or two or more point of sale devices ... in response to the control message if the control message is adapted for the point of sale device”. Where in the claim limitations is it recited “each control message adapted for one of two or more different point of sale devices”? Also, Applicants’ have a conditional statement in the claim limitations. Therefore, essential elements are missing from the claim. What happens “if the control message is not adapted for the point of sale device”?

Issue no. 13: Applicants’ argue: Clarification is required before a response can be made to the part of the rejection referencing col. 96, line 51-col. 99, line 43 in Rogge. Response: This citation was in error. The reference should have been Weber (col. 96, line 51-col. 99, line 43). Correction is also made above in claim 17.

Issue no. 14: Applicants’ argue: How can Weber disclose claim 18 when it fails to be even tangentially related to the architecture of Rogge and it cannot has been considered but is not persuasive. Response: Both Rogge and Weber have a point-of-sale system and architecture. Therefore they are considered to be related.

Issue no. 15: Applicants’ argue: There is simply no relationship between the architecture of the claimed invention, where physical point of sale terminals are connected to a hub, and the virtual point of sale terminals of Weber has been considered but is not persuasive. Response: A hub by definition is a device that splits

one network cable into a set of separate cables each connecting a different computer. Weber does teach more than one POS (point of sale) terminal, a gateway and a host.

Conclusion: Applicants' claims are not in condition for allowance nor do they simplify matters for appeal with the outstanding 35 USC 112, second paragraph rejections and the matters addressed in the arguments set forth above. Applicants' are misconstruing the 35 USC 112, second paragraph rejection of claims 9, 10, 13, 14, 17, 19, 22, 24, and 26-28.

The Examiner carefully drew up a correspondence of each of Applicants' claimed limitations, one or more referenced passages in Rogge, Nair, and Weber, what is well known in the art and what is obvious to one having ordinary skill in the art at the time the invention was made.

The Examiner is entitled to give claim limitations their broadest reasonable interpretation in light of the Specification (see below):

2111 Claim Interpretation; Broadest Reasonable Interpretation [R-1]

>CLAIMS MUST BE GIVEN THEIR BROADEST REASONABLE INTERPRETATION

During patent examination, the pending claims must be "given the broadest reasonable interpretation consistent with the specification." Applicant always has the opportunity to amend the claims during prosecution and broad interpretation by the examiner reduces the possibility that the claim, once issued, will be interpreted more broadly than is justified. In re Prater, 162 USPQ 541,550-51 (CCPA 1969). The court determined that to read a claim in light of the specification, to thereby interpret limitations explicitly recited in the claim, is a quite different thing from 'reading limitations of the specification into a claim,' to thereby narrow the scope of the claim by implicitly adding disclosed limitations which have no express basis in the claim. "The court found that applicant was advocating the latter, e.g., the impermissible importation of subject matter from the specification into the claim).<

Applicants' are respectfully requested to point out to the Examiner and to distinctly claim that which is considered to be the inventive concept in the claims and in the claim language.

Conclusion

14. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Inquiries

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ella Colbert whose telephone number is 571-272-6741. The examiner can normally be reached on Tuesday-Thursday, 6:30AM-4:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin can be reached on 571-272-6747. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3624

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



E. Colbert
Primary Examiner
February 16, 2006